

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SCRA 644 of 2023
SCRA 645 of 2023
SCRA 646 of 2023
SCRA 647 of 2023
SCRA 648 of 2023
SCRA 649 of 2023
SCRA 650 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on CMA No.289/2023.
2. For hearing of main case.
3. For orders on CMA No.290/2023.

19.05.2026

Mr. Pervaiz Ahmad Memon, advocate for the applicant.

These matters are pending since 2023 without any progress. Diary demonstrates that in more than three years since inception applicant has made no effort to have the matters listed or heard. It is considered illustrative to reproduced operative part of the impugned judgment herein below:

“5. We have heard the arguments of Counsels and Representatives of all parties and examined and perused the facts of the case and record, grounds of appeals and para-wise comments to decide the common controversies including classification of imported goods involved in all these cases. It has been noticed that the declarations made by the Appellant-Importers u/s 79 of the Act, 1969 regarding description of goods and its classification under PCT heading 4810.2900 were accepted by the Respondent-Department while passing order(s) u/s 80 and 83 of the Act, 1969 deemed to be made in accordance with the correct interpretation of tariff heading as per description of goods unless contrary shown. The import documents including bills of lading and PTA certificates submitted while filing goods declarations u/s 79 of the Customs Act, 1969 reflecting description of goods and classification HS code 4810.2900 have never been confronted as fake or fabricated by the Respondent-Department. WE have also observed that neither any lab test report of sample of imported goods to be taken in accordance with the provision of Section 199 of the Customs Act, 1969 is available on record nor the matter was referred to the Classification Centre particularly established at the concerned Collectorate of Customs for resolution of classification dispute of imported goods as per direction already notified by the Board in Para 2(i)&(ii) of CGO 12/20002 dated 15-06-2002 which is mandatory on all officers of Customs discharging their duties and functions under the administrative control of the Board in terms of Section 223 of the Customs Act, 1969. The case of the Respondent-Department premised merely on a report of customs lab issued in respect of sample relates to some other consignment of goods having GD No.KAPE-HC-92794 dated 28-11-2020 assessed and released prior to the GDs filed by the Appellant-Importers which are subject matter of instant appeals. It is also observed that a certificate of manufacturer of imported goods placed on record during the

adjudication proceedings, wherein, manufacturer of imported goods placed on record during the adjudication proceedings, wherein, manufacturer confirmed the use of these goods for printing and packaging as well as the contest of more than 10% by weight of total fiber obtained by a mechanical or chemi-mechanical process used in the imported goods was also confirmed. Such certificate of the manufacturer has also been not controverted by the Respondent-Department to establish its case that imported goods were multi-ply paperboard doesn't contained more than 10% by weight of total fiber obtained by a mechanical or chemi-mechanical process."

The judgment categorically held that department did not take any sample in accordance with section 199 of the Customs Act, 1969 and of its own violation did not refer the matter to the classification centre. The judgment also maintains, in paragraph 7 thereof, that the goods were assessed and released as per the tariff heading by the respondent department itself and the same was neither assailed under section 193 nor reopened under section 195 of the Customs Act. Reference is also made inter alia to the judgment of Division Bench of this court reported as 2021 PTD 1430, to state that in subsequent determination of classification of goods could not be applied retrospectively on the goods already assessed and declared. Prime facie the impugned judgment has duly deliberated facts, issues and law relevant there before and no exception in such regard is pointed out by the learned counsel. It is also not demonstrated that the impugned judgment could not be rested on the rationale relied upon. Since no question of law has been articulated meriting adjudication in reference jurisdiction, therefore, reference applications are dismissed in limine.

A copy of this decision may be sent under the seal of this Court and the signature of the Registrar to the learned Customs Appellate Tribunal, as required per section 196(5) of the Customs Act, 1969. Office is instructed to place copy hereof in the connected files.

Judge

Judge